

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14**

Roxana Landfill, LLC¹

Employer

and

**Teamsters, Automotive, Petroleum and Allied
Workers, Local Union No. 50**

Petitioner

Case 14-RC-278912

DECISION AND DIRECTION OF ELECTION

This case is before me pursuant to a stipulated record entered between the parties on July 13, 2021.² The parties waived their right to a pre-election hearing and stipulated that the sole issue is whether the election should be conducted in person or by mail ballot, which is a non-litigable matter.³ The Board has delegated its discretion in determining such arrangements to Regional Directors. *San Diego Gas and Electric*, 325 NLRB 1143, 1144 (1998). Although election arrangements, including the voting method, are not litigable matters at a pre-election hearing, the positions of the parties were solicited for consideration. The Employer contends that a manual election is appropriate, and it is possible to conduct a manual election safely notwithstanding the COVID-19⁴ pandemic circumstances at this time. Petitioner asserts that a mail ballot election should be held given the current state of the COVID-19 pandemic in Madison County, Illinois, where a manual election would be held, as well as in the States of Illinois and Missouri in general. After carefully considering the arguments made by the parties on this issue in conjunction with the six factors the Board has ordered me to consider in determining whether or not to order a mail ballot election,⁵ I have determined that a mail ballot election is appropriate under the extraordinary circumstances currently presented by the COVID-19 pandemic.

¹ The Employer's name appears as amended by the stipulated record.

² All dates are in 2021, unless otherwise noted.

³ See *Representation-Case Procedures*, 84 Fed. Reg. 69524, 69544 fn. 82 (Dec. 18, 2019) (citing *Manchester Knitted Fashions, Inc.*, 108 NLRB 1366, 1367 (1954)).

⁴ Throughout this decision, the terms "COVID-19," "COVID," and "Coronavirus" are used interchangeably.

⁵ *Aspirus Keweenaw*, 370 NLRB No. 45, slip op. at 4-8 (November 9, 2020).

CONCLUSIONS

Based upon the entire record⁶ in this matter, I conclude as follows:

1. The Employer is an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the Act.⁷
2. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
4. There are no contract bars or any further bars in existence that would preclude the Region from processing the petition.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time heavy equipment operator employees employed by the Employer at its facility located at 4601 Cahokia Creek Rd., Edwardsville, Illinois; but EXCLUDING all other employees, professional employees, temporary employees, office clerical employees, guards and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Teamsters, Automotive, Petroleum and Allied Workers, Local Union No. 50. For the reasons described below, I have determined that a mail ballot election will be conducted in this matter.

1. Employer Operations

The Employer operates a non-hazardous solid waste landfill for municipal solid waste and non-hazardous industrial waste at its Edwardsville, Illinois facility. There are approximately 12 employees in the proposed bargaining unit.

⁶ Per the Stipulation of Record, the parties submitted written statements which I have considered.

⁷ The parties stipulated that the Employer is a State of Delaware limited liability company engaged in the business of providing non-hazardous solid waste landfill for municipal solid waste, and non-hazardous industrial waste. During the past year, a representative period, the Employer in the course and conduct of its business operations purchased and received goods and services valued in excess of \$50,000 directly from sources located outside the State of Illinois. The parties also stipulated that the Employer annually derives gross annual revenues in excess of \$1,000,000.

2. Applicable Framework When Considering a Mail Ballot Election

On November 9, 2020, the Board reiterated its longstanding preference for manual elections under *San Diego Gas* while also providing more specific and defined parameters under which Regional Directors should exercise their discretion in determining election type against the backdrop of COVID-19. The Board set forth “six situations that suggest the propriety of mail ballots due to the COVID-19 pandemic,” noting that “[w]hen one or more of these situations is present, a Regional Director should consider directing a mail-ballot election” under the extraordinary circumstances presented by the COVID-19 pandemic. *Aspirus Keweenaw*, 370 NLRB slip op. at 1. Those six situations are:

1. The Agency office tasked with conducting the election is operating under “mandatory telework” status;
2. Either the 14-day trend in the number of new confirmed cases of Covid-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher;
3. The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size;
4. The employer fails or refuses to commit to abide by the GC Memo 20-10 protocols;⁸
5. There is a current Covid-19 outbreak at the facility or the employer refuses to disclose and certify its current status;⁹ and
6. Other similarly compelling considerations.

Accordingly, I analyze the instant petition using the prevailing circumstances in the state and county where the facility is located and in light of the Board’s recent guidance in *Aspirus*.

3. Facts Related to the Six Factors

(1) The telework status of the Region’s offices

As the Board in *Aspirus* acknowledged, all regional offices (including subregional and resident offices) have been on permissive, rather than mandatory, telework since mid-June 2020.

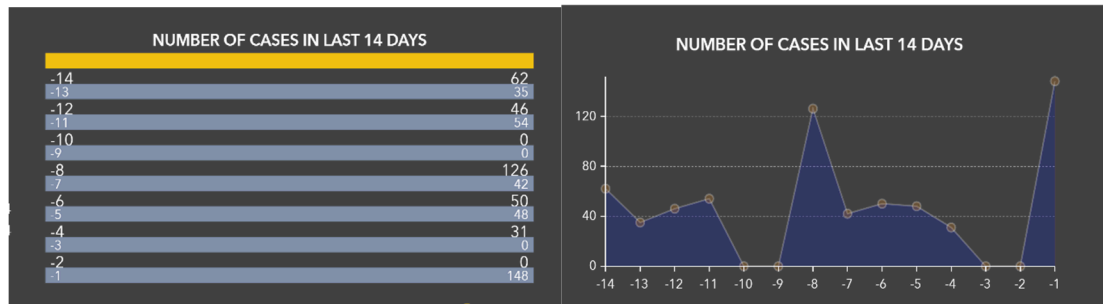
⁸ July 6, 2020, General Counsel Memorandum 20-10, “Suggested Manual Election Protocols” (GC Memo 20-10). See also, GC Memo 21-01, dated November 10, 2020, stating “[a]side from elements set forth in GC Memo 20-10, upon which the *Aspirus Keweenaw* Board relies in part, the instructions set forth in this memorandum supersede all other instructions on the subject.”

⁹ The Board recently clarified its direction regarding the fifth “current outbreak” factor in *Rush University Medical Center*, 370 NLRB No. 115, slip op. at 1-2 (April 27, 2021).

(2) *The 14-day trends for increasing cases and the positivity rate*

The Board suggests Regional Directors consider the 14-day trend in the number of new cases of COVID-19 and the 14-day testing positivity rate in the area around the Employer's facility.

In *Aspirus*, the Board does not specifically detail how the 14-day trend in the number of new cases should be evaluated. The Board does direct that county-level data for the potential manual polling place for the 14-day trend should be accessed through the "Coronavirus Resource Center" website maintained by Johns Hopkins University. 370 NLRB slip op. at 5, fn. 22. The Employer's facility is located in Madison County, Illinois. According to the Johns Hopkins "COVID-19 Status Report" for Madison County, the data shows that the 14-day trend in the number of new confirmed cases fluctuating from 62 cases on July 7 to a daily high of 148 cases on July 20.¹⁰



As further noted by the Board in *Aspirus* with regard to the second factor, the 14-day "percent positive" or "testing positivity rate" statistic is "based on the number of positive and total tests in the locality" and is "suggestive of transmission rates in the locality among people who have not been tested." *Aspirus*, 370 NLRB slip op. at 5. Johns Hopkins University notes that "[b]ecause a high percentage of positive tests suggests high coronavirus infection rates (due to high transmission in the community), a high percent positive can indicate it may be a good time to add restrictions to slow the spread of disease."¹¹ On May 12, 2020, the World Health Organization (WHO) advised governments that before reopening, testing positivity rates should remain at five percent or lower for at least 14 days,¹² and the Board has decided to use this five percent standard in analyzing the appropriateness of a mail ballot versus manual election. State-by-state statistics for 14-day testing positivity rates reported by Johns Hopkins ("Which U.S. States Meet WHO Recommended Testing Criteria?") show that as of July 21, while the State of Illinois has a lower positivity rate of 2.57 percent (albeit up from 1.95 percent on July 19), the neighboring/boundary State of Missouri, in which the Region is located, is one of 19 states that demonstrate a higher than recommended positivity rate at 17.97 percent, almost 13 percent above

¹⁰ <https://bao.arcgis.com/covid-19/jhu/county/17119.html> (accessed July 21).

¹¹ <https://www.jhsph.edu/covid-19/articles/covid-19-testing-understanding-the-percent-positive.html>. (accessed July 21).

¹² <https://coronavirus.jhu.edu/testing/testing-positivity> (accessed July 21).

the recommended rate.¹³ While Johns Hopkins reports county-level statistics for 14-day trends in the number of new confirmed cases, as noted above, it does not report statistics for 14-day testing positivity rates on a county-by-county basis. However, 10-day average case positivity rates are reported by Madison County showing 8.21 percent as of July 20.¹⁴ Notably, Madison County has not reported a 10-day test positivity rate below 5% since July 1 and it has been in an upward trend since then, with its highest 10-day test positivity rate of 8.54 reported for July 16, the highest 10-day rate since February 9, when it was 8.85%.¹⁵ Additionally, the State of Illinois Department of Public Health (IDPH) tracks and reports weekly test positivity rates for its counties which demonstrate an upward trajectory for Madison County since June 19 as follows: 1.7 percent reported on June 12, 2 percent reported on June 19, 3.9 percent on June 26, 6.1 percent on July 3 and 8.2 percent reported on July 10.¹⁶

(3) Mandatory health orders related to maximum gathering size

On June 25, 2021, Governor J.B. Pritzker, “in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety issues,” issued a Gubernatorial Disaster Proclamation and Executive Order 2021-14 extending the state’s public disaster declaration through July 24, 2021.¹⁷ On June 11, under the “Restore Illinois” five-phased plan to reopen the state, Governor Pritzker moved the state into the initial Phase 5 (“Bridge to Phase 5”) of reopening which removed capacity limits on businesses, large-scale events, conventions, amusement parks, and all other venues.¹⁸ Although there is no longer a statewide mask mandate, mask requirements for vaccinated and non-vaccinated individuals continue to align with U.S. Centers for Disease Control (CDC) guidelines. In accordance with guidance from the CDC, masks are still required on public transportation, in airports, at schools, in hospitals and in some other congregate settings.¹⁹ Fully vaccinated people in Illinois can resume activities without wearing a mask except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance. In this regard, effective June 11, per the Madison County Department of Public Health, fully vaccinated individuals no longer need to wear a mask or physically distance in any non-healthcare setting except where required by federal state or local rules and it is recommended that all unvaccinated

¹³ *Id.*

¹⁴ <https://gisportal.co.madison.il.us/portal/apps/opsdashboard/index.html#/c2a8d5f6752f498286bfc31252ecee1b> (accessed July 21).

¹⁵ *Id.*

¹⁶ <https://www.dph.illinois.gov/countyschool?county=Madison> (“IDPH is monitoring key indicators to identify early but significant increases of COVID-19 transmission in Illinois, potentially signifying resurgence.”) (accessed July 21).

¹⁷ <https://www2.illinois.gov/government/executive-orders> (accessed July 21).

¹⁸ <https://coronavirus.illinois.gov/restore-illinois/bridge-to-phase-5.html> (“As more of our residents receive the COVID-19 vaccine, Illinois will operate with a metrics-based pathway toward the fifth and final phase of the Restore Illinois reopening plan, in which all sectors of the economy reopen with businesses and recreation resuming normal operations, and where conventions, festivals, and large events can take place.”) (accessed July 21).

¹⁹ <https://coronavirus.illinois.gov/restore-illinois/bridge-to-phase-5.html> (“While regulations are rolled back gradually, Illinoisans should continue following the public health guidelines that have kept us safe during the pandemic, like wearing a mask in public and social distancing.”) (accessed July 21).

patrons where a mask or face covering when entering the County building.²⁰ Notably, at a news conference, Governor Pritzker recently urged Illinois residents to consider wearing a mask inside when among a large crowd “out of an abundance of caution” as the COVID Delta variant spreads across pockets of the country.²¹ Finally, I note that while the State of Illinois is proceeding to a full reopening, Madison County is one of a few high-risk counties recently coded as orange, indicating there are warning signs of increased COVID-19 risk in the county, unlike most other counties coded as blue, indicating that the county is experiencing overall stable COVID-19 metrics.²² The State cautions residents of orange-coded counties to consider questions such as “Should I still attend or host a large gathering? Are there additional precautions I should take given my personal/family health risks? Should I wait to dine out or go to a movie?”²³

(4) Employer’s position on procedures in GC Memo 20-10

With regard to the fourth situation, the Employer agrees to commit to abide by the GC Memo 20-10 protocols.

(5) COVID-19 in the Employer’s facility

The Employer has certified, by affidavit, its COVID-19 status and affirms that there is no current COVID-19 outbreak at its Edwardsville facility. The Employer affirms it is unaware of any other employees at the Springfield facility who, in the last 14 days: (1) have tested positive for COVID-19; (2) are awaiting COVID-19 test results; (3) have exhibited symptoms characteristic of COVID-19; or (4) were in contact with someone who has tested positive for COVID-19. The Employer also commits to abide by GC Memo 20-10, as noted, and to supplement its submission on this point, if necessary, to certify any changes to the Edwardsville facility COVID-19 status.

(6) Other compelling considerations

Petitioner asserts that in support of directing a mail ballot election, I should consider the COVID-19 Delta variant as a new and emerging “variant of high consequence.”

4. Parties’ Positions

The Employer asserts that the Board strongly favors manual elections and a manual election would be safe here in light of the current state of the COVID-19 pandemic in Madison County. In this regard, the Employer urges that the Board’s pre-vaccine guidance provided in *Aspirus* is “now outdated and no longer reasonably controlling” and I should exercise discretion in ordering a manual election in light of the presence of the COVID vaccine and factors specific to the Employer’s operations which favor a manual election. The Employer contends that the

²⁰ https://www.co.madison.il.us/departments/planning_and_development/index.php (accessed July 21).

²¹ <https://chicago.suntimes.com/coronavirus/2021/6/28/22554790/pritzker-vaccine-coronavirus-covid-19-delta-variant-india-masks-shots> (accessed July 22).

²² <https://www.dph.illinois.gov/countymetrics?county=Madison> (accessed July 21).

²³ *Id.*

small size of the petitioned-for unit along with its large (36x24 feet) and well-ventilated proposed voting site in the administration building at the Edwardsville facility, with a separate entrance and exit and ease of ability to stay within state and local COVID guidelines and recommendation, will allow for safe voting at the Edwardsville facility. Specifically, the Employer states it would comply with cleaning and setting up the voting area to allow for social distancing and limited contact between individuals; providing face masks, hand sanitizer, and gloves; and all other specific requirements set forth in GC Memo 20-10. Thus, the Employer argues, “[h]olding a manual election, in this case, should be significantly safer for all individuals involved than visiting a grocery store, picking up an order from a pharmacy, or using public transportation.”

Petitioner asserts that a mail ballot election should be directed in the interest of the “health of potential members, other employees of the Employer, the Employer’s representatives, and the Union’s representatives, as well as Board personnel responsible for carrying out an election.” In this regard, Petitioner argues that a mail ballot election is warranted under the second situation (14-day trend for increasing cases and the positivity rate in Madison County) and sixth situation (compelling consideration related to the COVID-19 Delta variant) set forth in *Aspirus*.

5. Analysis of the Six Factors in *Aspirus*

Initially, I reject the Employer’s argument that the guidance provided in *Aspirus*, “during the height of the pandemic, without any viable approved vaccine, is now outdated and no longer reasonably controlling.” Relying on information tracked by the CDC, the Employer urges that since the Board’s decision in *Aspirus*, a “majority of the adult population has been vaccinated and insulated from the most serious health outcomes of COVID.” However, while all Americans have access to receive the COVID-19 vaccine and many have opted to become fully vaccinated, many have not. There are no assurances that all of the attendees at the election would be fully vaccinated which could put many attendees at risk. While I recognize that conditions regarding the COVID pandemic have improved significantly to the point where manual elections are being held more frequently around the country, all elections directed continue to be conducted under the current Board guidance in *Aspirus* and GC-Memos 20-10 and 21-01 which I must follow.

There are no issues with regard to the first, third, fourth, and fifth situations under *Aspirus* – the Region’s offices are not operating under a mandatory telework policy;²⁴ the proposed manual election site does not appear to violate any health orders relating to maximum gathering size; and the Employer agrees to commit to abide by the GC Memo 20-10 and 21-01 protocols, there is no current COVID-19 outbreak at the Edwardsville facility and the Employer does not refuse to disclose and certify the current status of the facility.

²⁴ The Employer’s statements that “all regional offices reopened on April 17, 2020” and “[t]he Division of Judges resumed trials effective June 1, 2020” are in error and misleading – as stated above, all regional offices (including subregional and resident offices) have been on permissive, rather than mandatory, telework since mid-June 2020 and have been closed to the public; administrative trials resumed by *Zoom videoconference only* and no in-person trials have been held since the onset of the pandemic.

Regarding the second factor, the above data showing the 14-day trend in the number of new confirmed cases demonstrates three upward trajectories in a span of 14 days, each one higher than the last, as well as a fluctuating trend of 64 cases on July 7 to more than double of 148 cases on July 20.²⁵ Moreover, I find that there is current evidence of ongoing COVID-19 infection in Madison County based on test positivity rates reported, as explained above. In this regard, I particularly note the most recent (July 20) 10-day test positivity rate of 8.21 percent reported by the Madison County.²⁶ Contrary to the Employer's assertion in its written statement that "the data trends indicate that if a manual election was held sometime in late July, the COVID data very likely would be within 'acceptable' range that is safe enough to hold a manual election," the above data showing an upward trajectory in positivity rates over 5 percent since July 1 demonstrate very unacceptable ranges under the Board's guidance in *Aspirus*. Further, the County test positivity rates are consistent with weekly test positivity rates tracked by the State of Illinois for Madison County which demonstrate an upward trajectory since June 19: 1.7 percent reported on June 12, 2 percent reported on June 19, 3.9 percent on June 26, 6.1 percent on July 3 and 8.2 percent reported on July 10. Finally, I also note that although the State of Illinois has an overall low positivity rate of 1.95 percent, the neighboring/boundary State of Missouri, where the Region is located, is one of 19 states that demonstrate an alarmingly higher than recommended positivity rate of 17.67 percent. Overall, I find this evidence of the 14-day trend for increasing cases and test positivity rates above five percent is sufficient to meet the second factor of the Board's guidance for when a mail-ballot election should be considered and leads me to conclude there is too much risk to holding a manual election at this time or in the near future.²⁷

Finally, I consider the sixth factor and compelling consideration raised by Petitioner. Petitioner argues that the emergence of COVID-19 variants in the area, particular the Delta "variant of concern" under CDC guidelines should be considered in support of directing a mail ballot election. The Board considered this factor most recently in *Rush University Medical Center*, 370 NLRB No. 115, slip op. at 2 (April 27, 2021), finding that "no changes in prevention strategies have been recommended by the CDC based on [COVID-19] variants currently in circulation. Such changes are only recommended for 'variants of high consequence,' and no such variants have been identified by the CDC to date." *Id.* at 2.²⁸ The *Rush* Board concluded that "the CDC's determination that new variants exist does not, as of this date, constitute a

²⁵ I reject the Employer's argument that "general trends in case counts simply do not justify imposition of a mail ballot election when (a) the case counts are low and (b) there is a widely available vaccine treatment." To the contrary, as noted, case counts are not low in Madison County and, further, I am bound by the Board's guidance in *Aspirus*.

²⁶ In its written statement, the Employer acknowledges a six percent 14-day positivity rate reported by the New York Times (presumably on July 19, the date of the Employer's written submission). Without relying on New York Times data, I note that as of July 21, the 14-day positivity rate was reported at an increased rate of eight percent. See, <https://www.nytimes.com/interactive/2021/us/madison-illinois-covid-cases.html> (accessed July 21).

²⁷ I reject the Employer's argument that "the 14-day test positivity rate is now a completely skewed statistic" based on vaccine access which "renders the *Aspirus Keweenaw* factors moot and/or outdated."

²⁸ The CDC has identified three classes of COVID variants: variant of interest, variant of concern, and variant of high consequence. Currently, the Delta variant, as well as the Alpha, Beta and Gamma variants, circulating in the United States have been classified as variants of concern. To date, no variants of high consequence have been identified in the United States. See, <https://www.cdc.gov/coronavirus/2019-ncov/variants/variant-info.html> (accessed July 21).

“similarly compelling circumstance” within the meaning of *Aspirus* factor 6.” Based on the Board’s findings in *Rush*, I do not consider this compelling consideration raised by Petitioner in making my decision to order a mail-ballot election.

Based on the above, given the above conditions, I find the appropriate and most responsible measure to ensure a safe election is a mail-ballot election. A mail-ballot election will eliminate the risk of further infection and the risk of unnecessarily exposing employees, Board agents, party representatives, and their families to COVID-19, and it will ensure that the unit employees have the opportunity to vote promptly.²⁹

ELECTION DETAILS

I have determined that the election will be conducted by mail. The ballots will be mailed to employees employed in the appropriate voting group at 3:00 p.m. on **August 10, 2021**, by personnel of the National Labor Relations Board, Region 14, from the office of the National Labor Relations Board, Subregion 17 – 8600 Farley Street – Suite 100, Overland Park, Kansas 66212-4677. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **August 17, 2021**, or otherwise requires a duplicate mail ballot kit, should communicate immediately with the National Labor Relations Board by calling the Subregion 17 Office at (913) 275-6525.

The ballots will be commingled and counted by the Subregion 17 office at 2:00 p.m. on **Tuesday, September 7, 2021**. In order to be valid and counted, the returned ballots must be received by the Subregion 17 office prior to the counting of the ballots. The parties will be permitted to participate in the ballot count, which will be held by videoconference. A meeting invitation for the videoconference will be sent to the parties’ representatives prior to the count. No party may make a video or audio recording or save any image of the ballot count.

VOTING ELIGIBILITY

Eligible to vote are those in the unit who were employed during the weekly payroll period ending **July 17, 2021**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote by mail as directed above.

²⁹ In making my findings I do not rely on the pre-pandemic 2008 GC Memo 08-05, referenced by the Employer in its written statement, discussing difference in voter turnout between manual, mail and mixed manual/mail elections.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

VOTER LIST

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellphone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Tuesday, July 27, 2021**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

The list must be filed electronically with the Region and served electronically on the other parties named in this decision. The list must be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

POSTING OF NOTICES OF ELECTION

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be

posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

Pursuant to Section 102.5(c) of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlrb.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

DATED at St. Louis, Missouri, this 23rd day of July 2021.



William B. Cowen, Acting Regional Director
National Labor Relations Board, Region 14
1222 Spruce Street, Room 8.302
St. Louis, Missouri 63103-2829